

# INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE  
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON, D. C. 20224

Industry Circular No. 66-4

February 28, 1966

## DEFERRED PAYMENT OF TAXES ON DISTILLED SPIRITS AND RECTIFIED PRODUCTS

Proprietors of distilled spirits plants  
and others concerned:

### A. Purpose

The purpose of this circular is to alert you to the changes in tax-payment procedures made by Treasury Decision 6877, published in the Federal Register for February 26, 1966.

### B. Background

On January 7, 1966, a notice of proposed rule making was published in the Federal Register (31 F.R. 217) to amend 26 CFR Part 170 by adding thereto a new Subpart C relating to deferred payment of taxes on distilled spirits and rectified spirits and wine. Treasury Decision 6877 adopts the proposed regulations, which become effective April 1, 1966, with clarifying changes made in §§ 170.41 and 170.62. If you are to be able to evaluate the full advantages of the new regulations, it is very important that you read the following statements of what the new regulations do, what they do not do, and what you must do, and study the explanation of the new regulations.

### C. What the new regulations do

The regulations prescribe new procedures for the payment by proprietors of bottling premises of tax on distilled spirits withdrawn by them from internal revenue bond for rectification and bottling. Under the new procedures, proprietors of bottling premises will use an entirely new method for computing the amount of tax they will pay with each semimonthly return. A new return, Form 4077, is being prescribed for use by proprietors of bottling premises. The new regulations provide related requirements respecting premises, inventories, segregation of stocks, records, and default in payment of taxes. These regulations also discontinue the optional three-day deferral period for filing returns provided for in Subpart W of 26 CFR Part 170.

### D. What the new regulations do not do

The new regulations do not change the existing requirements respecting --

- (1) determination of tax on distilled spirits withdrawn from internal revenue bond;
- (2) assumption of liability for tax on distilled spirits withdrawn from internal revenue bond;
- (3) computation of the amount of distilled spirits tax to be paid by proprietors of bonded premises with returns on Form 2522;
- (4) computation of the amount of rectification tax to be paid by proprietors of bottling premises with returns on Form 2527;
- (5) return periods; and
- (6) maximum penal sums of tax deferral bonds or computation of penal sums of such bonds. (However, in the case of less than maximum bonds, it may be necessary for proprietors to increase the penal sum of bonds on Forms 2613, 2614, or 2615 because of the increased liability under the new regulations.)

E. What you must do

1. Proprietors of bonded premises and rectifiers. If you are a proprietor of bonded premises, or if you are a rectifier, and you have qualified under Subpart W of 26 CFR Part 170 for extended deferral of distilled spirits taxes (in your capacity as proprietor of bonded premises), or rectification taxes, as the case may be, you may continue to so defer the payment of taxes without further qualification. However, if you now are required to file returns for deferred payment of taxes not later than the third business day after the last day of the return period and you want to defer payment of taxes on and after April 1, 1966, you must qualify under the new regulations by giving such bonds and consents as are required by those regulations (see §§ 170.54 and 170.55). If you are not qualified for extended deferral under Subpart W, and do not qualify under the new regulations, you will not be able to withdraw tax-determined spirits from bond or release tax-determined rectified spirits for bottling or packaging, as the case may be, except on prepayment of the tax.

2. Proprietors of bottling premises. If you are a proprietor of bottling premises, and want to defer payment of the distilled spirits tax on spirits withdrawn by you from internal revenue bond on and after April 1, 1966, you must qualify under the new regulations by giving such bonds and consents of surety as are required by those regulations. This is necessary even though you are now qualified for extended deferral under Subpart W of 26 CFR Part 170. If you do not qualify under the new regulations, you will not be able to withdraw tax-determined spirits from bonded premises on and after April 1 except on prepayment of the tax by the warehouseman.

F. Taxes determined before April 1, 1966

Taxes determined on distilled spirits withdrawn from internal revenue bond, and on rectified products and wines, before April 1, 1966, must be paid by the returns, on the forms, and by the times, prescribed by Subpart W of 26 CFR Part 170. If a proprietor of bottling premises has spirits, on which he has assumed liability for tax, in transit to his premises as of the beginning of business on April 1, 1966, he must pay the tax on such spirits by return on Form 2522 for the return period in which falls either the date of receipt of the spirits at his bottling premises or the 21st day after the certificate of tax-determination on the covering withdrawal form, whichever period occurs first. In addition, if he has qualified to defer payment of tax under the provisions of the new regulations in Subpart C, he would also be required to file a return on Form 4077 for the same return period. Note that tax-determined spirits withdrawn from bond by a proprietor of bottling premises before April 1, 1966, and which arrive at his premises after that date, will not be entered in the record of tax liability required by § 170.62 and discussed below under item G.4. However, the quantity of such spirits will be entered in the daily summary of addition to controlled stock prescribed by § 170.61(a) as "spirits received on withdrawal from internal revenue bond under section 5174(a)(2), I.R.C." and, consequently, will not be deducted from the closing inventory when computing the tax to be paid at the close of the return period (see item G.5. below).

G. Explanation of principal changes in taxpayment procedures

The following explanations of the principal changes in taxpayment procedures are of interest to proprietors of bottling premises, and should be studied carefully by them. These changes provide the procedures to be followed by proprietors of bottling premises qualified under Subpart C to defer payment of tax on distilled spirits withdrawn by them from bond under section 5174(a)(2), I.R.C.

1. New terms. The new regulations define two new terms, "control premises" and "controlled stock" (see § 170.43). Your bottling premises automatically become your control premises; however, you may establish additional control premises on your general plant premises (see § 170.52). Your stocks on hand at the beginning of business April 1, 1966, which fall within the definition of controlled stock will become your opening inventory of controlled stock.

2. Inventories of controlled stock. Before commencing business on or after April 1, 1966, as a proprietor of bottling premises you will have to take a physical inventory, in proof gallons, of your controlled stock. This "opening" inventory will provide the starting point for your controlled stock operations. Thereafter, as of the close of each

return period, you will have to establish an inventory, in proof gallons, of your controlled stock; these may be book inventories (unless otherwise required by your Assistant Regional Commissioner), except for the return periods ending June 30 and December 31 of each year, when you must take physical inventories (see §§ 170.58 - 170.60).

3. Additions to controlled stock. After your opening inventory has been determined, additions to your controlled stock will take place when the event (such as, received for rectification or bottling, or dumped and recorded on batch record, Form 122, or dumped for reprocessing or rebottling) specified in the definition of controlled stock occurs. Certain products are excluded from controlled stock by the definition of the term. Two examples of such products are imported spirits received directly from customs bond for bottling without rectification, and wines used in the production of a rectified wine product or bottled without rectification.

4. Records. Each proprietor of bottling premises will be required (a) to prepare a record of each physical inventory of controlled stock taken by him (see § 170.60); (b) to prepare daily summaries of additions to and removals from controlled stock (see § 170.61); (c) to prepare at the close of each return period, a summary of the additions to and removals from controlled stock for that period (see § 170.61); and (d) to maintain a daily record of tax liability assumed by him under section 5174(a)(2), I.R.C. (see § 170.62). Generally speaking, the tax liability assumed on each lot of spirits withdrawn from bond under section 5174(a)(2), I.R.C., will be entered in the record of tax liability when such spirits are received on the bottling premises. However, your attention is called to the provisions of § 170.62 respecting the treatment of tax liability on spirits in those cases where an entire lot is lost while in transit to your bottling premises or where the spirits are not received by a specified time.

5. Computation of amount of tax to be paid. To compute the amount of tax to be paid with his return on Form 4077, the proprietor will first establish an inventory of his controlled stock at the close of the return period. From such inventory he will deduct (1) the total proof gallons of alcoholic ingredients, other than spirits withdrawn from bond by him under his withdrawal bond, entered into controlled stock during the return period, and (2) the total proof gallons of any mixture or product in the inventory which derived less than one half of its proof gallon content from tax-determined spirits; the remainder will be the proprietor's adjusted closing inventory. A tax value for the adjusted inventory will be computed by multiplying the proof gallons in the adjusted inventory by \$10.50. The tax value of the adjusted inventory will then be subtracted from the proprietor's outstanding tax liability.

(as shown in his tax liability account maintained in accordance with § 170.62) at the close of the return period, and the difference will be the tentative tax to be paid with his return for that return period. Note the parenthetical provision of § 170.50(a) for adjustment of the outstanding liability. This provision is intended to take care of the circumstances (which may arise after July 1, 1966) when, because of Saturdays, Sundays, or holidays, Form 4077, with remittance, may be filed after the close of the return period in which it would ordinarily be due.

The tentative tax, however, is subject to two tests. First, if payment of the tentative tax would leave any liability unpaid for more than 12 return periods, the tentative tax must be increased to cover any such liability. Second, if the liability remaining after application of the first test exceeds the tax value of removals from controlled stock during any six consecutive return periods, the tentative tax must be increased so that the payment will reduce the outstanding liability to the prescribed limit. The six consecutive return periods will be chosen by the proprietor from the thirty return periods preceding the period for which the return is being prepared and must be return periods under the new regulations.

The new tax return, Form 4077, will contain schedules for making the tax computations prescribed in § 170.50 and described above. Schedule C of the form will be used to apply the first test described in the preceding paragraph; however, this schedule will not be applicable until you prepare your return for the thirteenth return period under the new regulations. Schedule D of the form will be used to apply the second test described in the preceding paragraph; however, this schedule will not be applicable until you prepare your return for the seventh return period under the new regulations.

6. Default in payment of taxes. The new regulations do not change the present requirements of 26 CFR Part 201 respecting default in payment of taxes. However, under the new regulations, a proprietor of bottling premises who has defaulted in payment of tax cannot remove any of his controlled stock from his control premises until he first files a return on Form 2521 (appropriately modified), with remittance in an amount not less than the number of proof gallons of controlled stock to be removed multiplied by \$10.50. When a proprietor of bottling premises is required to file returns on Form 2521 he should indicate in item 4 of the Form 2521 the term "bottling premises" in addition to the number of the distilled spirits plant, enter in column (b) the number of proof gallons proposed to be removed, and in column (c) the amount to be paid with the return.

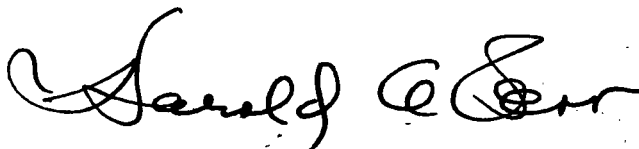
7. Operations by alternating proprietors. Where the bottling premises are operated by alternating proprietors under § 201.174 the outgoing proprietor may either transfer any or all of his controlled stock to the incoming proprietor, or he may retain it as provided in § 170.56. Transfer to the incoming proprietor of controlled stock which has not been packaged or cased for removal constitutes an addition to the incoming proprietor's controlled stock. Such addition must be entered by him in his record required by § 170.61(a)(2) and must be deducted, under the provisions of § 170.50(b)(1), from his controlled stock inventory when computing the tax value of his adjusted inventory. No entry is made in the incoming proprietor's tax liability account for such stock. Controlled stock transferred to the incoming proprietor after it is packaged or cased for removal will not become part of his controlled stock and will not be entered in the records required by § 170.61. Any controlled stock transferred to the incoming proprietor is considered to have been removed from the control premises of the outgoing proprietor, and the removal will be reflected in the taxpayment for the return period in which the transfer was made.

H. Applicability of section 7503, I.R.C.

The provisions of section 7503, I.R.C., with respect to filing returns when the last day for filing falls on a Saturday, Sunday, or holiday in the District of Columbia or on a Statewide legal holiday in the particular State in which a return is required to be filed, will be applicable to the filing of returns under the provisions of the new regulations.

I. Inquiries

Inquiries regarding this circular should refer to its number and should be addressed to your Assistant Regional Commissioner, Alcohol and Tobacco Tax.



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